

## § 407.5

or the Executive Committee close such portion to the public under paragraph (a) (5), (6) or (7) of § 407.2, the Board of Directors or the Executive Committee, shall vote by recorded vote on whether to close such portion.

(5) No proxy vote will be permitted for any vote required under this section.

(6) A record of each vote indicating the vote of each Director pursuant to paragraphs (b) (1), (2), (3) or (4) of this section will be posted in the Office of the Secretary within one day after it has been taken, *Provided*, That if a meeting or portion thereof is to be closed, such record shall be accompanied by: (i) A full written explanation of the reasons for closing such meeting or portion thereof and (ii) a list of all persons expected to attend such meeting or portion thereof and their affiliation.

## § 407.5 Certification by General Counsel.

For every meeting closed pursuant to any paragraph of § 407.2(a), the General Counsel of Eximbank will be asked to certify prior to such meeting that in his or her opinion such meeting may properly be closed to the public, and to state which of the exemptions set forth in § 407.2(a) he or she has relied upon. A copy of such certification will be posted in the Office of the Secretary. The original certification together with a statement from the presiding officer of such meeting setting forth the time, date and place of such meeting and the persons present will be retained by Eximbank as part of the transcript, recording or minutes of such meeting described below.

## § 407.6 Transcripts, recordings and minutes of closed meetings.

Eximbank will maintain a complete transcript or electronic recording of the proceedings of every meeting or portion thereof closed to the public, *Provided, however*, That if any meeting or portion thereof is closed pursuant to paragraphs (8), (9)(i) or (10) of § 407.2(a), Eximbank may maintain a set of detailed minutes for such meetings in lieu of a transcript or electronic recording. The entire transcript, electronic recording or set of minutes of a

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meeting will be made promptly available to the public for inspection and copying in the Office of the Secretary. Copies of such transcript or minutes, as well as copies of the transcription of such recording disclosing the identity of each speaker, will be furnished to any person at the actual cost of duplication or transcription. However, Eximbank will not make available for inspection or copying the transcript, electronic recording or minutes of the discussions of any item on the agenda of such meeting which contains information of the kind described in § 407.2(a). Requests to inspect or to have copies made of any transcript, electronic recording or set of minutes of any meeting or item(s) on the agenda, thereof should be made in writing to the General Counsel and if possible, identify the time, date and place of such meeting and briefly describe the item(s) being sought. Eximbank will maintain a complete verbatim copy of the transcript, a complete electronic recording or a complete copy of the minutes of each meeting, or portion thereof, closed to the public for two years after such meeting or one year from the date of final action of the Board of Directors or the Executive Committee on all items on the agenda of such meeting, whichever occurs later.

## § 407.7 Relationship to Freedom of Information Act.

Nothing in this part expands or limits the present rights of any person under part 404, except that the exemptions contained in § 407.2 shall govern in the case of any request made pursuant to part 404 to copy or inspect the transcripts, recordings or minutes described in § 407.6.

## PART 408—PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

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AUTHORITY: National Environmental Policy Act of 1969; 42 U.S.C. 4321 *et seq.*

SOURCE: 44 FR 50811, Aug. 30, 1979, unless otherwise noted.

### Subpart A—General

#### § 408.1 Background.

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal Actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA (NEPA Regulations). Accordingly, CEQ issued final NEPA Regulations which are binding on all Federal agencies as of July 30, 1979 (40 CFR parts 1500 through 1508) on November 29, 1979. These Regulations provide that each Federal agency shall as necessary adopt implementing procedures to supplement the NEPA Regulations. Section 1507.3(b) of the NEPA Regulations identifies those sections of the NEPA Regulations which must be addressed in agency procedures.

#### § 408.2 Purpose.

The purpose of this part is to establish procedures which supplement the NEPA Regulations and provide for the implementation of those provisions

identified in § 1507.3(b) of the NEPA Regulations.

#### § 408.3 Applicability.

Historically, virtually all financing provided by Eximbank has been in aid of U.S. exports which involve no effects on the quality of the environment within the United States, its territories or possessions. Eximbank has separate procedures for conducting environmental reviews where such reviews are required by E.O. 12114 (January 4, 1979) because of potential effects on the environment of global commons areas or on the environment of foreign nations. The procedures set forth in this part apply to the relatively rare cases where Eximbank financing of U.S. exports may affect environmental quality in the United States, its territories or possessions.

### Subpart B—Eximbank Implementing Procedures

#### § 408.4 Early involvement in foreign activities for which Eximbank financing may be requested.

(a) Section 1501.2(d) of the NEPA Regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some form of Federal approval. Pursuant to the Export-Import Bank Act of 1945, as amended, Eximbank is asked to provide financing for transactions involving exports of U.S. goods and services for projects in foreign countries which are planned by non-U.S. entities (Transactions).

(b) To implement the requirements of § 1501.2(d) with respect to these Transactions, Eximbank:

(1) Will provide on a project-by-project basis to applicant seeking financing from Eximbank guidance as to the scope and level of environmental information to be used in evaluating a proposed Transaction where: (i) The proposed Eximbank financing would be a major action and (ii) a Transaction may significantly affect the quality of the human environment in the United States, its territories or possessions.

(2) Upon receipt of an application for Eximbank financing or notification that an application will be filed, will

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consult as required with other appropriate parties to initiate and coordinate the necessary environmental analyses.

These responsibilities will be performed by the General Counsel and the Engineers of Eximbank.

(c) To facilitate Eximbank review of Transactions for which positive determinations have been made under paragraphs (b)(1)(i) and (ii) of this section, applicants should:

(1) Consult with the Engineer as early as possible in the planning process for guidance on the scope and level of environmental information required to be submitted in support of their application;

(2) Conduct any studies which are deemed necessary and appropriate by Eximbank to determine the impact of the proposed action on the quality of the human environment;

(3) Consult with appropriate U.S. (Federal, regional, State and local) agencies and other potentially interested parties during preliminary planning stages to ensure that all environmental factors are identified;

(4) Submit applications for all U.S. (Federal, regional, State and local) approvals as early as possible in the planning process;

(5) Notify Eximbank as early as possible of all other applicable legal requirements for project completion so that all applicable Federal environmental reviews may be coordinated; and

(6) Notify Eximbank of all known parties potentially affected by or interested in the proposed action.

**§ 408.5 Ensuring environmental documents are actually considered in Agency decision-making.**

Section 1505.1 of the NEPA Regulations contains requirements to ensure adequate consideration of environmental documents in agency decision-making. To implement these requirements, Eximbank officials will:

(a) Consider all relevant environmental documents in evaluating applications for Eximbank financing;

(b) Ensure that all relevant environmental documents, comments and responses accompany the application through Eximbank's review processes;

(c) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating an application which is the subject of an EIS.

Eximbank actions	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Issuance of Preliminary Commitment (P.C.).	When application is received.	When the Board of Directors meets to consider application. The Board may notify applicant that environmental effects will be considered when final commitment is requested and request information on environmental matters.	Under § 408.4(b)(1) (i) and (ii), General Counsel to determine whether requested Eximbank financing is a major action and Engineer to determine whether proposed Transaction may significantly affect the quality of the human environment in the United States, its territories or possessions.
Issuance of Final Commitment.	When application is received.	When the Board of Directors meets to consider application.	(If no P.C. has been issued, key offices will make determinations mentioned above.) Engineer to collect, prepare or arrange for preparation of all environmental documents.

**§ 408.6 Typical classes of action.**

(a) Section 1507.3(c)(2) of the NEPA Regulations in conjunction with § 1508.4 thereof requires agencies to establish

three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

Actions normally requiring EIS's	Actions normally requiring assessments but not necessarily EIS's	Actions normally not requiring assessments or EIS's
None .....	Applications for Eximbank financing under the direct lending program in support of transactions for which determinations under § 408.4(b)(1) (i) and (ii) above may be affirmative.	Applications for Eximbank financing in the form of insurance or guarantees.

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(b) Eximbank will independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

### §408.7 Environmental information.

Interested persons may contact the General Counsel regarding Eximbank's compliance with NEPA.

## PART 410—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY EXPORT-IMPORT BANK OF THE UNITED STATES

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410.171–410.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 51 FR 4575, 4579, Feb. 5, 1986, unless otherwise noted.

### §410.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in pro-

grams or activities conducted by Executive agencies or the United States Postal Service.

### §410.102 Application.

This part applies to all programs or activities conducted by the agency.

### §410.103 Definitions.

For purposes of this part, the term—  
*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

*Complete complaint* means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

*Handicapped person* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase: